

Civil Society Organizations Express Deep Concern Over U.S. Efforts to Externalize Border Enforcement to Guatemala

June 13, 2019

We write to express deep concern regarding the memorandum of cooperation signed on May 31, 2019 between the U.S. Department of Homeland Security (DHS) and the Guatemalan Ministry of Government under which DHS agents and investigators, including Customs and Border Protection (CBP) and Immigration and Customs Enforcement (ICE) agents, will be deployed to Guatemala with the goal of stemming migration to the United States. According to some media reports, DHS investigators have already participated in a joint anti-smuggling operation in Guatemala City under this agreement, and CBP and ICE agents are currently present in Guatemala on its border with Mexico.¹ This memorandum of cooperation signed by Acting DHS Secretary Kevin McAleenan and Guatemalan Minister Enrique Degenhart has yet to be made public, though reports state it aims to “disrupt human trafficking and drug smuggling networks, enhance bilateral law enforcement cooperation, and expand areas of cooperation to address push factors.”² Signed prior to the new bilateral agreement with Mexico³ and amidst ongoing U.S. pressure on the Mexican government to agree to a “safe third country” agreement that would prevent individuals who transit through Mexico from seeking asylum in the United States, this memorandum of cooperation constitutes just one of the administration’s many actions to prohibit Central American migrants from exercising their right to seek international protection.

Sending U.S. immigration enforcement officials to the Mexico-Guatemala border demonstrates that the United States is engaging in an impermissible effort to externalize its border and thereby circumvent its obligations towards asylum seekers. While traffickers and smugglers must be held accountable, anti-smuggling operations and border enforcement efforts cannot violate individuals’ human rights to freedom of movement to leave their home country and to seek asylum. Rather than militarizing the Mexico-Guatemala border, countries in the region must address migration from a humanitarian, rights-based approach. We urge the United States and Guatemala to immediately halt joint efforts to deter people from seeking protection and to make the May 31st memorandum of cooperation public, including details of the duration and funding of the operations, implementing agencies in both countries, and operational guidance regarding law enforcement training and use of force.

Deterrence-based approaches will not work to stem migration from Central America because of the extraordinary levels of violence and impunity people are fleeing. The UN Refugee Agency has concluded that a significant portion of individuals entering Mexico are in need of international protection.⁴ Moreover, the Trump Administration’s efforts thus far to deter migrants from reaching the United States have not reduced the flow and have only driven more individuals to take more

¹ Washington Post, *Trump Administration to send DHS investigators, agents to Mexico-Guatemala border*, May 31, 2019, <https://bit.ly/2ESst6h> and La Jornada, *Tropas de EU ya están en Guatemala para contener migración en frontera con México* 3 de junio 2019, <https://www.jornada.com.mx/sin-fronteras/2019/05/31/trump-enviara-decenas-de-agentes-a-frontera-de-guatemala-con-mexico-7931.html>

² DHS Press Release, May 31, 2019, <https://www.dhs.gov/news/2019/05/31/acting-secretary-mcaleenan-signs-bilateral-agreement-confront-factors-driving>

³ U.S. Department of State, U.S.-Mexico Joint Declaration, June 7, 2019, <https://www.state.gov/u-s-mexico-joint-declaration/>

⁴ UNHCR, Mexico, April 2019 Factsheet, <https://www.refworld.org/es/pdfid/5ccb153e4.pdf>

clandestine and dangerous routes at the U.S.-Mexico border and in the region.⁵ For example, the administration's policy of forcing migrants to wait for weeks to months before applying for asylum at U.S. ports of entry, a practice known as "metering," has resulted in over 18,000 migrants waiting in Mexico.⁶ DHS's own Office of the Inspector General (OIG) concluded in 2018 that this practice directly contributed to increased numbers of people being forced into significantly more dangerous, irregular border crossings.⁷ Policies like metering and "Remain in Mexico," under which individuals are forcibly returned to Mexico while undergoing court proceedings in the United States, and which will now be expanded under the new U.S.-Mexico agreement, do not deter individuals from fleeing, but just compound the harm that asylum seekers—including children, women, and families—face.

We are also concerned about the effect that the presence of DHS officials in Guatemala may have on the rights of migrants and asylum seekers as well as their role in preventing migrants from crossing the Mexico-Guatemala border to seek protection in Mexico or, eventually, the United States. Individuals also have the right to seek protection in the country where they feel safe, whether that is Mexico or the United States. Under U.S. pressure, Mexico has already taken steps in just the past week to dramatically curtail the right to asylum, agreeing to militarize its border with 6,000 National Guard troops and engaging in the mass detention and deportation of 400 people in a single day in Chiapas state.⁸ These actions are in addition to ongoing efforts by Mexico to systematically return asylum seekers to harm's way and to deport record levels of migrants, including asylum seekers with pending claims. The increased militarization of the Mexico-Guatemala border with the presence of DHS agents and personnel will likely result in even graver violations of asylum seekers' rights.⁹ We are alarmed by the impact that new information-sharing initiatives between the Guatemalan and U.S. governments on families and children leaving Guatemala could have on their right to leave their country and seek protection.¹⁰

This memorandum of cooperation only represents the latest erroneous approach in the Trump Administration's response to the refugee crisis from Central America. At the same time that the United States deploys DHS agents to Guatemala in order to prevent migrants from reaching the United States, the administration has also threatened to cut foreign assistance to Honduras, El Salvador, and Guatemala that specifically addresses the root causes of migration to force these governments to do more to stop their citizens from leaving. It is unclear what the memorandum

⁵ Human Rights First, *Asylum Seekers Barred at the Border Make the Choice to Survive*, April 22, 2019, <https://www.humanrightsfirst.org/blog/asylum-seekers-barred-border-make-choice-survive>, and WOLA Commentary, June 5, 2019, *80 Homeland Security Agents to Guatemala? We've Seen This Before. It Doesn't Work*.

<https://www.wola.org/analysis/80-homeland-security-agents-to-guatemala-weve-seen-this-before-it-doesnt-work/>

⁶ Gobierno de México, Comunicado Conjunto SRE-SE-AGRICULTURA, junio 2019, <https://www.gob.mx/sre/prensa/posicionamiento-del-gobierno-de-mexico-sobre-migracion-e-imposicion-de-tarifas-arancelarias-202603?state=published>

⁷ DHS OIG, *Special Review - Initial Observations Regarding Family Separation Issues Under the Zero Tolerance Policy*, Sept. 2018, <https://www.oig.dhs.gov/sites/default/files/assets/2018-10/OIG-18-84-Sep18.pdf>

⁸ Amnesty International, MEXICO: ASYLUM SEEKERS AT RISK OF MASS DETENTIONS, June 7, 2019 <https://www.amnesty.org/en/documents/amr41/0492/2019/en/>

⁹ Vanguardia, *En seis meses, México devolvió a su país 80 mil migrantes*, 4 de junio 2019, <https://vanguardia.com.mx/articulo/en-seis-meses-mexico-devolvio-su-pais-80-mil-migrantes> and NGO reports from a recent Observation Mission, <https://www.animalpolitico.com/2019/06/migrantes-detenciones-amlo-trump/>

¹⁰ Washington Post, *Guatemala says it's working with the United States to tighten borders, break up migrant caravans*, June 5, 2019, https://www.washingtonpost.com/world/the_americas/guatemala-says-its-working-with-the-united-states-to-tighten-borders-break-up-migrant-caravans/2019/06/05/3e7aa742-87bd-11e9-9d73-e2ba6bbf1b9b_story.html?utm_term=.d62862daad0b

refers to insofar as addressing push factors as it is not the role of DHS to implement such assistance programs. In the same vein, President Trump announced that he would be applying tariffs on products imported from Mexico to pressure Mexico to step up its migration enforcement.¹¹ Efforts by the Trump Administration to deter migration and to pressure governments of the region to prevent their citizens from leaving, in the case of Central America, or to pressure Mexico to stop migrants from reaching the United States, violate international law as they interfere with an individual's rights to freedom of movement and to seek asylum.

Instead of this misguided approach, the United States should implement well-targeted assistance in consultation with civil society organizations, focusing on reducing structural poverty, promoting decent work, addressing gang and gender-based violence, combating corruption, and strengthening human rights and the rule of law in each of the three countries.¹² It should expand resettlement and in-country processing in the region so that individuals have the opportunity to seek international protection closer to home or in other countries, and it should strengthen and support the institutions and international organizations that offer protection from forced migration and internal displacement. It should also dedicate the ample resources that DHS already has to ensure that individuals seeking asylum at the U.S. border can do so in an efficient, humane, and rights-respecting manner.

¹¹ White House Statements & Releases, May 30, 2019, <https://www.whitehouse.gov/briefings-statements/statement-president-regarding-emergency-measures-address-border-crisis/>

¹² Recommendations for U.S. Engagement to Address Migration from and Displacement within the Northern Triangle of Central America 2019, <https://www.lawg.org/wp-content/uploads/All-logos-Recommendations-for-U.S.-Engagement-to-Address-Migration-from-and-Displacement-within-the-Northern-Triangle-of-Central-America.pdf>

United States

Alianza Americas
Amnesty International USA
CARECEN DC
Central American Resource Center/CRECEN
Coalition for Humane Immigrant Rights (CHIRLA)
Committee in Solidarity with the People of El Salvador (CISPES)
Denver Justice and Peace Committee
Evangelical Lutheran Church in America
Freedom Network USA
HOPE Border Institute
Human Rights First
Jesuit Conference Office of Justice and Ecology
Kids in Need of Defense (KIND)
Latin America Working Group (LAWG)
Mennonite Central Committee U.S. Washington Office
Network in Solidarity with the People of Guatemala (NISGUA)
NETWORK Lobby for Catholic Social Justice
Oxfam
Veterans for American Ideals
Washington Office on Latin America (WOLA)
Women's Refugee Commission

Guatemala

ACCSS
Asociación Pop No'j
Coordinadora Institucional de Promoción por los Derechos de la Niñez -CIPRODENI-
Payxail Yajaw Konob'
Primer Alcalde de Alcaldía Indígena ixil de Nebaj, Quiché
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Mexico

Centro de Derechos Humanos Fray Matías de Córdova
Families Belong Together Mexico
Instituto de Investigación y Práctica Social y Cultural AC, IIPSOCULTA
Instituto Mexicano para el Desarrollo Comunitario (IMDEC)
Instituto para las Mujeres en la Migración (IMUMI)
Red de Mujeres del Bajío A.C.

Guatemala and Mexico

Mesa Transfronteriza Migraciones y Género

Costa Rica

Center for Justice and International Law